

W O M E N I N I N V E S T I G A T I O N S

Every March, the world observes International Women's Day to highlight women's equality and empowerment. Here at Global Investigations Review, we thought it presented the perfect occasion to put the spotlight on women in the field of investigations.

When thinking about high-powered women in investigations, several names immediately spring to mind. In the United State, Leslie Caldwell leads the Department of Justice's criminal division, while Mary Jo White is the chair of the Securities and Exchange Commission. President Obama recently nominated Loretta Lynch to become the next US attorney general.

In other countries, too, we find women occupying senior positions in public service.

In France, Éliane Houlette was recently appointed the country's new special financial prosecutor, nicknamed the "super-prosecutor". In the United Kingdom, the Financial Conduct Authority's (FCA) former head of enforcement and financial crime, Tracey McDermott, is now the director of supervision and authorisations, and also sits on the organisation's board.

Of course, there are far more examples out there of hard-working women in the field of investigations, which is why GIR is pleased to acknowledge them in our first 'Women in Investigations' special.

Here GIR profiles lawyers, government prosecutors, barristers, forensic accountants and various in-house counsel, all of whom can serve as inspirations to current and future generations of investigations professionals. This magazine carries shortened profiles due to space constraints but the full versions can be accessed on the GIR website.

We've searched near and far, from São Paulo to Shanghai, Oslo to Johannesburg, Washington, DC to Sydney, to find the 100 individuals that have come to be included in this list, drawn up to demonstrate the wide variety of talented women that form part of the worldwide investigations community.

In this special issue, readers can get to know the FCA's current acting head of enforcement and market oversight, Georgiana Philippou; Marianne Djupesland, head of the anti-corruption team at Økokrim, Norway's national authority for investigation and prosecution of economic and environmental crime, and Daniëlle Goudriaan, the new national coordinating prosecutor for corruption in the Netherlands.

We speak to established private practitioners, including former prosecutor Nancy Kestenbaum at Covington & Burling, and Mini Vandepol, who heads Baker & McKenzie's global compliance group. Among the emerging women in investigations GIR chose to profile we find Leila Babaeva at Miller & Chevalier, Erica Sellin Sarubbi of Brazil's Trench Rossi e Watanabe Advogados, and Tiana Zhang of Kirkland & Ellis.

We also highlight in-house lawyers from global financial institutions such as Barclays and Nomura, and get the forensic accountant perspective from individuals at EY and PwC.

GIR set out to discover what it is that makes these individuals tick, what achievements they are most proud of, and what keeps them busy in their respective jurisdictions. They tell us how they got into this area of law: for many, a combination of their curious nature and a particular knack for solving complex puzzles put them on the investigations track. Others told us of how proud they have been to have represented their countries in public service, and of the personal fulfilment it brought to be part of investigations into misconduct that was at the heart of the 2008 financial crisis.

But we also discussed what affects individuals' practices the most: the continuing development of the international investigations landscape. They tell us why evidence gathering by foreign lawyers in Switzerland can be problematic; we find out that practitioners in New York and Australia face similar burdens in dealing with a hotchpotch of domestic regulators all looking into similar conduct; and how Brazilian lawyers, in the midst of a snowballing corruption investigation, face "a bumpy road ahead" in attempting to change locals' mindsets for the better. Meanwhile, in the United Kingdom, lawyers speak of their concerns regarding future enforcement by the Serious Fraud Office following its tough talk on cooperation in deferred prosecution agreements and legal privilege in investigations.

We also looked into the question of gender and what it means to be a woman in the investigations field. Lawyers speak of the importance of getting enough support from partners at work and partners at home, to successfully balance the often hectic lifestyle as an investigations professional with a fulfilling family life. We hear encouraging examples of offices where there are many women in leadership positions, and of the many female and male role models that have helped shape these professionals' careers.

Individuals GIR spoke to mentioned that while progress is being made, unconscious bias persists in seemingly innocent decisions: in partnerships dominated by men, who unconsciously champion and promote individuals in their image, or when working parents' professional progress stalls, simply because fewer working hours are spent in the office in full view of senior management. Some mentioned statistics that show women tend to leave Big Law after having their second child, and talked of potential flexible policies that might help prevent the outflow of such talented professionals in the future. We discuss how the issue should be tackled: for example, among the 100 individuals, we find those people in favour, and others against quotas in the workplace, and we hear about individual experiences with such policies so far. We're told employers need to be "creative" about gender equality, and that the abolition of double standards – for example allowing both male and female parents leave to spend time with their families – will go a long way towards creating a more equal workplace. However, if there's one common thread, it is that on top of gender equality, overall diversity should be embraced and promoted further.

Lastly, we also set out to discover more about the women outside of their profession, and can happily report that among our 100, we have a former prosecutor with a penchant for figure skating, one whose children call her "The Enforcer", an individual who is fascinated by lighthouses, and a lawyer who can perform the folk dances of over a dozen countries.

** Those marked with an asterisk are members of the Global Investigations Review editorial board.*



Rachel G Skaistis

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I spent most of my early career practising traditional litigation. At Cravath, litigators are trained to be generalists, meaning that we do not focus on any particular factual or legal subject matter; instead, we work hard to develop tools – brief writing, oral advocacy, deposition taking – that can be applied in any setting. That said, about 10 years ago, I became involved in my first matter before the SEC. It was an investigation by the agency into a client’s accounting practices. I found the work different and challenging. I was using all the litigation skills I had worked hard to develop, but in a new way. Since that first matter, my practice has shifted to primarily investigations work, including government, board and internal investigations, although I always try to keep some traditional litigation work on hand. Because any investigation can end up in a litigation posture, I think it is really important to make sure those more traditional skills are as sharp as they can be.

I really enjoy that a lot of what I do is counsel and give practical advice. It is exciting, and occasionally scary, to step away from legal precedent (because often there is none) and to come up with pragmatic solutions – solutions that will address the concerns raised by regulators, board members or other stakeholders, while not needlessly disrupting or hampering the business.

There is often little guidance – legal or otherwise – so there is a lot of uncertainty when figuring out the best approach to take in terms of conducting an investigation and dealing with a regulator. You are balancing a lot of things: for example, doing enough work to satisfy yourself and others that you have identified all the relevant facts, while at the same time not spending too many of your client’s resources (both in terms of money and people) on a matter that may not warrant those costs, or figuring when it makes sense to cooperate with the regulators in their efforts, and when it makes sense to push back because the regulator is overreaching. There are consequences to every decision you make, so you need always to be vigilantly thoughtful.

I am not sure it is a matter of opinion; there simply must be gender equality in the workplace and in any area where that has not happened yet, we need to work harder to make it happen – all of us, both men and women.

CRAVATH, SWAINE & MOORE LLP